

## **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** David Quigley, AICP, Planning and Zoning Manager/(954)797-1103

**PREPARED BY:** David Abramson, Deputy Planning and Zoning Manager

**SUBJECT:** SE 6-1-08/08-94/Davie Travel Center/4751 Southwest 30th Street/Generally located at the southeast corner of the Florida Turnpike and I-595

**AFFECTED DISTRICT:** District 1

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** SPECIAL PERMIT - SE 6-1-08, Davie Travel Center, 4751 SW 30 Street (TS) (permit to allow the following: 1) temporary storage of vehicles to include trucks, trailers, truck tractors, R.V.'s, buses, heavy equipment on trailers, automobiles (no wrecked/junked), boats on trailers, and one fenced area for storage of roofing and road building materials (pavers, tiles, bricks, sand, rock, and clean fill); 2) fuel pumping stations; 3) truck/bus washing facility; 4) service station with repair bays; 5) convenience store with food concessions and retail sales of automotive needs; 6) warehouse/storage; 7) flex space with service and office uses; and 8) outside storage area) Planning and Zoning Board recommended approval for twenty (20) years and that construction shall start within one year or the special permit would expire

**REPORT IN BRIEF:** The owner is requesting special permit approval to continue and add temporary activities on the subject site for a period of 15 years. Temporary activities on the site were originally approved by Town Council on September 6, 2006 for 12 months. Then on August 15, 2007, the Town Council approved an extension of the second special permit to February 15, 2009, with potential for additional 18 month extension.

The owner of the site concurrently submitted a conceptual master site plan (CMSP 12-1-06, Grand Plaza of Davie) that proposes a mixed-use development consistent with the Town's Transit Oriented Corridor (TOC) Master Plan. However, concurrency issues relating to water/sewer capacity, as well as Broward County's tabling of the Town's TOC Land Use Plan Amendment application prevent the owner from moving forward with this project.

Note that the applicant has also proposed an agreement (submitted to the Town on December 1, 2008, just prior to the Planning and Zoning Board meeting) that outlines numerous responsibilities for the Town in relation to the proposed temporary use (e.g. completion of the TOC amendment and other details). Staff does not believe that it is necessary for the Town to enter into this agreement in order to approve the special use permit.

**PREVIOUS ACTIONS:** n/a

**CONCURRENCES:** At the December 10, 2008 Planning and Zoning Board meeting, Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve for twenty (20) years, and that construction shall start within one year or the special permit will expire. In a roll call vote, the vote was as follows: Chair McLaughlin – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. DeArmas – yes; Ms. Turin – yes. **(Motion carried 5-0)**

At the December 15, 2008 Community Redevelopment Agency meeting, Ms. Kovac made a motion to approve the temporary use of Davie Travel Center at Burris Road and I-595 for a period of 15 years. The motion was seconded by Ms. Santini. Everyone voted in favor.

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):**

Staff finds the application complete and suitable for transmittal to Town Council for further consideration. If the special use permit is approved, staff recommends that any conditions of the approval be set forth in the special use permit ***and that the proposed agreement not be approved.***

**Attachment(s):** Staff Report, Site Plan



**Proposed Use(s):**

Continue and include additional temporary activities (refer to application details portion of the staff report)

<b><u>Surrounding Uses:</u></b>		<b><u>Surrounding Land</u></b>	
<b><u>Designation:</u></b>		<b><u>Use</u></b>	<b><u>Plan</u></b>
<b>North:</b>	Interstate-595	Transportation	
<b>South:</b>	Twin Lakes	Industrial	
<b>East:</b>	State Road 7 and Interstate-595	Transportation	
<b>West:</b>	Florida Turnpike	Transportation	
<b><u>Surrounding Zoning:</u></b>			
<b>North:</b>	T, Transportation District		
<b>South:</b>	M-4 (Broward County)		
<b>East:</b>	M-3 (Hacienda Village)		
<b>West:</b>	M-3 or M-4 (Broward County)		

## **Zoning History**

### **Related Zoning History:**

The property was annexed into the Town of Davie on June 19, 1996.

On December 1, 1999, the Town Council approved Ordinance 99-42 adopting the “Truck Stop District” into the Land Development Code.

*Rezoning Application (ZB 5-1-99 Davie Truck Stop)*, rezoning was approved by Town Council on March 1, 2000 through Ordinance 2000-009 rezoning the property from M-4 (County) to TS, Truck Stop District. A subsequent corrective rezoning was approved by Town Council removing the Spur Road (SW 30<sup>th</sup> Street) from the previous rezoning request, as the land was not under ownership of the applicant.

*Rezoning Application (ZB 12-5-02, Town of Davie)*, at the March 5, 2003 Town Council meeting, Rezoning Application, ZB 12-5-02 for Southwest 30<sup>th</sup> Street was approved from M-4 (County) to M-3, Planned Industrial Park (Town of Davie).

### **Previous Requests on the same Property:**

*Special Use Permit Application (SE 12-1-99)*, at the March 15, 2000 Town Council approved Special Use Permit Application. Concurrently application FX 12-1-99 assigned 11.78 acres of Commercial flex to the site, utilizing the 20% Industrial to Commercial acreage rule pursuant the Broward County Administrative Rules Document.

*Master Site Plan Application (MSP 11-1-03 Jolmy Enterprises)*, at the March 17, 2004 Town Council meeting, Councilmember Hubert made a motion, seconded by Councilmember Crowley, to approve Master Site Plan Application for a ‘Travel Center,’ a 32.77 acre site consisting of two phases of development. Phase I consists of 297 truck parking spaces, a 42,484 square foot, two story building with first floor retail and second story offices with 20 gas fuel pumps and 24 diesel fuel pumps and 187 parking spaces for cars. Phase II is proposed for a hotel and other related accessory uses.

*Special Use Permit Application, (SE 4-1-05 Davie Travel Center)*, at the September 6, 2006 Town Council meeting, Vice-Mayor Crowley made a motion, seconded by Mayor Truex, to approve Special Use Permit Application, SE 4-1-05 for two (2) temporary modular offices.

*Special Use Permit Application, (SE 10-1-05 Davie Travel Center)*, at the September 6, 2006 Town Council meeting, Vice-Mayor Crowley made a motion, seconded by Mayor Truex, to approve Special Use Permit Application, SE 10-1-05 for temporary storage of trucks, cars, trailers, and other vehicles.

*New Business Discussion*, at the July 26, 2007 Town Council meeting, the petitioner discussed the previous conditions of approval and the Town Council agreed to allow the petitioner to plant Ficus instead of the approved Live Oaks.

*Special Use Permit Application, (SE 7-1-07 Davie Travel Center)*, at the August 15, 2007 Town Council meeting, Vice-Mayor Caletka made a motion, seconded by Councilmember Luis to approve Special Permit Application (SE 7-1-07) with staff's approval after 18 months, to accept the ficus hedge as planted, to include Security 1031 Services LLC in ownership for public records, the height of the hedge would be determined by staff, and staff conditions.

**Concurrent Requests on same property:**

*Conceptual Master Site Plan (CMSP 12-1-06, Grand Plaza of Davie)*, the owner has submitted a conceptual master site plan "Grand Plaza of Davie" a mixed-use development proposed to contain office space, retail, hotel rooms, and residential units in buildings ranging from 3 to 18 stories.

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**Applicable Codes and Ordinances**

*Land Development Code (Section 12-308)*, Review for special permits.

*Land Development Code (Section 12-35)*, Special uses are those uses which have some special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. A request for such use shall take the form of an application for special permit, processed in accordance with the regulations contained in Article X.

*Land Development Code, Section 12-34(P)(1)(b)3.(c)*, A trailer may be used as a temporary office or shelter (for a period of up to eighteen (18) months) incidental to construction on or development of the premises on which the trailer is located. The applicant must maintain an active building permit for the site while the trailer is in use. If it is determined that the building permit for the site is no longer valid, the trailer shall be removed from the site within thirty (30) days. An application for special permit may be submitted pursuant to the requirements contained herein for extension of the eighteen-month time period.

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**Comprehensive Plan Considerations**

**Planning Area:** The subject property is within Planning Area 6. This Planning Area includes lands located south of S.R. 84, east of University Dr. and north of Nova Dr., together with lands located east of the FL Turnpike and west of S.R. 7, south of S.R. 84 and north of the south town limits. The majority of the planning area is industrially zoned and land use plan designated.

**Broward County Land Use Plan:** The property is in Flexibility Zone 58.

**Applicable Goals, Objectives & Policies:**

*Future Land Use Plan, Policy Group 9: Industrial and Employment Center Use; Policy 9-1:* The Industrial category shall provide for the development of diversified facilities necessary to promote strong economic and employment bases for the town.

*Future Land Use Plan, Policy Group 9: Industrial and Employment Center Use; Policy 9-2:* The town shall endeavor to expand its economic base through expansion of the industrial and manufacturing sectors of its economy.

*Future Land Use Plan, Policy Group 9: Industrial and Employment Center Use; Policy 9-4:* Industrial land uses shall be located with access to primary transportation facilities, particularly interstates, highways, rail corridors, commercial airports, and navigable waterways. Consistent with policy 9-2, vacant land with such access shall be examined for potential industrial development.

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**Application Details**

The petitioner is requesting approval of a special permit application to allow temporary activities on the subject site including:

- Temporary storage of vehicles to include trucks, trailers, truck tractors, R.V.'s, buses, heavy equipment on trailers, automobiles (*no wrecked/junked*), boats on trailers, and one fenced area for storage of roofing and road building materials (*pavers, tiles, bricks, sand, rock, and clean fill*)
- Fuel pumping stations
- Truck/bus washing facility
- Service station with repair bays
- Convenience store with food concessions and retail sales of automotive needs; Warehouse/Storage
- Flex space with service and office uses
- Outside storage area

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**Public Participation**

The public participation process provides the ability for citizens of the Town of Davie to actively participate in the Town's development procedures. The petitioner conducted meetings with the public at the Town of Davie Community Room on July 14, 2008 and July 21, 2008. Attached is the petitioner's Citizen Participation Report.

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**Staff Analysis**

The intent of a special permit is for Town Council to review uses that are unique, and that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

In March 2004, the subject site received master site plan approval to develop a truck-stop. This development was consistent with both the site's future land use (Industrial) and zoning (TS, Truck Stop District). Since that time, the site has been designated within a proposed area-wide Development of Regional Impact (DRI) and future land use of Transit Oriented Corridor (TOC). Consequently, the Town developed/adopted a master plan and is processing Land Use Plan Amendment (LUPA) for the TOC.

The purpose of this request is to seek special permit approval to continue (a period of 15 years, refer to the attached agreement) and include additional temporary activities. Temporary activities on the site were originally approved by Town Council on September 6, 2006 for 12 months through SE 10-1-05 and SE 4-1-05. Following those approvals, the owner also received an 18 month extension through SE 7-1-07.

Concurrently, the owner of the site has submitted a conceptual master site plan (CMSP 12-1-06, Grand Plaza of Davie) that proposes a mixed-use development consistent with the Town's TOC master plan. However, concurrency issues relating to water/sewer capacity, as well as Broward County's tabling of the Town's TOC LUPA application has delayed the owner's ability to move forward with the mixed-use project.

The following information is staff's analysis based on the criteria established in the Town of Davie's, Land Development Code, Section 12-308(A)(1) for Special Use Permit Applications:

- (i) The proposed special permit is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

*The proposed special permit is appropriate and suitable under the future land use designation of Industrial.*

- (ii) The proposed special permit will create an unrelated an incompatible use;

*The proposed special permit is isolated from the Town by major transportation corridors and industrial uses.*

- (iii) The proposed special permit will adversely affect living conditions in the neighborhood or the town;

*The proposed special permit will have minimal adverse impacts on living conditions in the neighborhood or in the Town as the surrounding occupancies are transportation corridors.*



(iv) The proposed special permit will create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;

*Present zoning of TS, Truck Stop anticipates frequent use of the subject site for incoming/outgoing vehicular traffic. Additionally, it is adjacent to major corridors, so the volume of traffic into other parts of the Town from/to the site is minimized.*

(v) The proposed special permit will adversely affect surrounding property values;

*The proposed special permit is consistent with the existing zoning designation and should have minimal impact on surrounding property values.*

(vi) The proposed special permit will be a deterrent to the improvement or development of other property in accord with existing regulations;

*The proposed special permit would not deter any of the surrounding property owners from developing or improving their properties, as the surrounding properties will not be negatively impacted visually. The surrounding properties are major transportation corridors with limited-access, or are industrial.*

(vii) The proposed special permit will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.

*The proposed temporary activities associated with the special permit may be permitted if it is determined by the Town Council to be compatible, and appropriate for the situation.*

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### **Staff Recommendation**

Staff finds the application complete and suitable for transmittal to the Planning and Zoning Board, Community Redevelopment Agency, and Town Council for further consideration. If approved, staff recommends the following condition:

1. Staff has reviewed the proposed agreement [submitted by the petitioner on December 1, 2008, then forwarded to the Town Attorney's Office for legal review] and notes numerous obligations have been place on the Town including the approval of Transit Oriented Corridor.

*Staff does not believe that the proposed agreement should be part of this special permit. If approved, conditions could be part of a special permit order.*

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### **Planning and Zoning Board Recommendation**

At the December 10, 2008 Planning and Zoning Board meeting, Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve for twenty (20) years, and that construction shall start within one year or the special permit will expire. In a roll call vote, the vote was as follows: Chair McLaughlin – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. DeArmas – yes; Ms. Turin – yes. **(Motion carried 5-0)**

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### **Community Redevelopment Agency Recommendation**

At the December 15, 2008 Community Redevelopment Agency meeting, Ms. Kovac made a motion to approve the temporary use of Davie Travel Center at Burriss Road and I-595 for a period of 15 years. The motion was seconded by Ms. Santini. Everyone voted in favor.

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### **Town Council Motion**

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### **Exhibits**

1. Justification Letter
  2. Mail-out Radius Map
  3. Mail-out
  4. Public Participation Notice
  5. Public Participation Sign-in Sheet
  6. Public Participation Report/Summaries
  7. Proposed Agreement
  8. Future Land Use Plan Map
  9. Aerial, Zoning, and Subject Site Map
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Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

*File Location: P&Z\0\_Dev Review\Development Applications\Applications\SE\_Special Permit\SE\_08\SE 6-1-08 Davie Travel Center*

## Exhibit 1 (*Justification Letter*)

### SIEGEL, LIPMAN, DUNAY, SHEPARD & MISKEL, LLP

GARY S. DUNAY  
KENNETH W. LIPMAN  
BONNIE MISKEL  
JONATHAN L. SHEPARD  
CARL E. SIEGEL

THE PLAZA • SUITE 801  
5355 TOWN CENTER ROAD  
BOCA RATON, FLORIDA 33486

(561) 368-7700  
FAX: (561) 368-9274  
WWW.SLDSMLAW.COM

SCOTT BACKMAN  
LINDA B. LYMAN

#### Justification Statement for Special Permit

Davie Travel Center ("Owner") owns the property located at the southeast corner of the Florida Turnpike and I-595 (the "Property"). The Property is designated as Industrial on the Broward County and Town of Davie Land Use Plans and is zoned Planned Truck Stop (TS). The Property is currently being utilized as a vehicle storage facility in accordance with the Truck Stop zoning designation and previously approved Special Permit applications. However, Owner ultimately desires to redevelop the Property in accordance with the pending Transit Oriented Corridor (TOC) land use plan amendment, Areawide Development of Regional Impact (DRI) and associated Land Development Regulations.

The town previously approved Temporary Use permits for the Property allowing for vehicle storage parking, office trailers and a perimeter Ficus hedge (SE 10-1-05, SE 4-1-05, SE 7-1-07). Owner now submits this Special Permit Application which, in addition to the previously approved uses, will permit the following uses on the Property in accordance with the plans submitted with this Application:

Fuel Pumping Stations  
Truck /Bus Washing Facility  
Service Station with Repair Bays  
Convenience Store with food concessions and retail sales of automotive needs  
Warehouse / Storage  
Flex Space with Service and Office Uses  
Outside Storage Area

Owner acknowledges that these uses and the Special Permit will expire upon the Town's satisfaction of all of the following items, which will further the redevelopment of the Town's State Road 7/441 Corridor:

1. Area Redevelopment consistent with TOC, 441 Master Plan, Areawide DRI and CRA
  - Adoption of TOC Land Use Plan Amendment
  - Adoption of the pending Areawide DRI
  - Adoption of Land Development Regulations consistent with TOC and DRI
  - Collapsing Town Flex Zones to permit additional residential density
2. Approved access to Property (FDOT, Broward County, Town of Davie)
  - Access from State Road 7/441 (FDOT)
  - Access from Turnpike/I-595 (FDOT) – *Town agrees to assist with meetings at FDOT if necessary*

- Oakes Road overpass at Turnpike (FDOT, Town of Davie)

3. Available utility supply to Property

- Town of Davie is purchasing property for construction of additional water plant to supply TOD, Areawide DRI, and CRA
- Town of Davie agrees to provide water and sewer services to Property.

The Special Permit approval shall be valid for a period not to exceed fifteen (15) years in order to establish the TOC and commence redevelopment in accordance with the approved plans and development regulations noted above. If redevelopment of the Property has not commenced within the initial fifteen (15) year period of the Special Permit, Owner shall have the option of applying to the Town Council for an extension, the timing of such extension shall be at the sole discretion of the Town Council. Additionally, Owner agrees to continue to abide by the Special Permit and all previous conditions of approval for Special Permits SE 10-1-05, SE 4-1-05 & SE 7-1-07, which Town acknowledges shall remain effective until such time as the above conditions are satisfied.

Criteria for Approving Special Permit

This request for a Special Permit is consistent with Section 12-308 of the Town of Davie Land Development Regulations. In particular, the requested Special Permit (i) is consistent with the Town of Davie Comprehensive Plan; (ii) will relate to and be compatible with adjacent uses; (iii) will ultimately enhance living conditions in the neighborhood and Town; (iv) will not increase traffic or affect public safety; (v) will eventually assist with increasing surrounding property values; (vi) will assist with the improvement and development of surrounding properties; and (vii) will not constitute the granting of a special privilege that will contrast with the welfare of the general public.

1. The Special Permit is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof.

*The proposed Special Permit for the existing Truck Stop is consistent with the adopted Town of Davie Comprehensive Plan. Each of the proposed uses are consistent with the existing Industrial land use designation of the Property. The Town, however, is in the process of amending the land use regulations for the entire 441 Corridor in order to encourage more active and pedestrian friendly uses. In lieu of permanently developing the property consistent with the uses currently permitted by the Planned Truck Stop zoning and Industrial land use, Owner, in cooperation with the Town, desires to make temporary use of the Property until such time as redevelopment is a real and viable option. The proposed Special Permit will allow for a consistent, compatible and appropriate use of the Property until such time as Broward County, the Town of Davie, the South Florida Regional Planning Council and the State Department of Community Affairs adopt the pending Transit Oriented Corridor and Development of Regional impact that is planned for the State Road 7/441 Corridor.*

2. The Special Permit will not create an unrelated and incompatible adjacent use.

*The proposed uses contemplated by the Special Permit are compatible with the surrounding area, as the Property is at an intersection of major highways and surrounded by more intense industrial uses. In addition, each of the proposed uses are permitted uses within the existing Industrial land use category and Planned Truck Stop zoning district. Because the Property is bounded mostly by roadways and other industrial properties the proposed uses would certainly relate to the existing use in the vicinity of the Property.*

3. The Special Permit will not adversely affect living conditions in the neighborhood or the Town.

*The requested Special Permit will not adversely affect living conditions in the neighborhood or Town. The Special Permit will allow the Owner to utilize the Property until such time in the future that the proposed Transit Oriented Corridor is developed. Granting the Special Permit will ultimately serve as a stimulus for the desired redevelopment efforts along 441, and for this property in particular.*

4. The Special Permit will not create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety.

*The proposed Special Permit will not excessively increase traffic congestion or negatively affect public safety. The adjacent roadways were previously improved in cooperation with the State of Florida and Town of Davie in order to encourage and accommodate additional uses and intensity of the Property. The proposed uses currently contemplated for the Special Permit do not rise to a level of intensity originally envisioned for development of the Property. In addition, the proposed uses are temporary in nature in order to eventually promote the future redevelopment of the Property and the remainder of State Road 7 / 441 Corridor.*

5. The Special Permit will not adversely affect surrounding property values.

*The proposed Special Permit will not adversely affect surrounding property values. The Special Permit will allow the Owner to utilize the Property in a manner that is consistent with the existing land use and zoning designation for a temporary timeframe, while Broward County and the Town of Davie adopt and approve the TOC for the State Road 7/441 Corridor. At some point in the near future, Owner desires to develop the Property consistent with the TOC and will therefore increase property values in the area.*

6. The Special Permit will not be a deterrent to the improvement or development of other property in accord with existing regulations.

*The Special Permit will not deter development of this or other properties in accord with existing regulations. As previously mentioned, this Special Permit will permit specific uses on the Property while a change in land use and zoning regulations is taking place for the larger area of the State Road 7 corridor. Owner has agreed to conditions of approval that will limit the time that the proposed uses are permitted to operate on the*

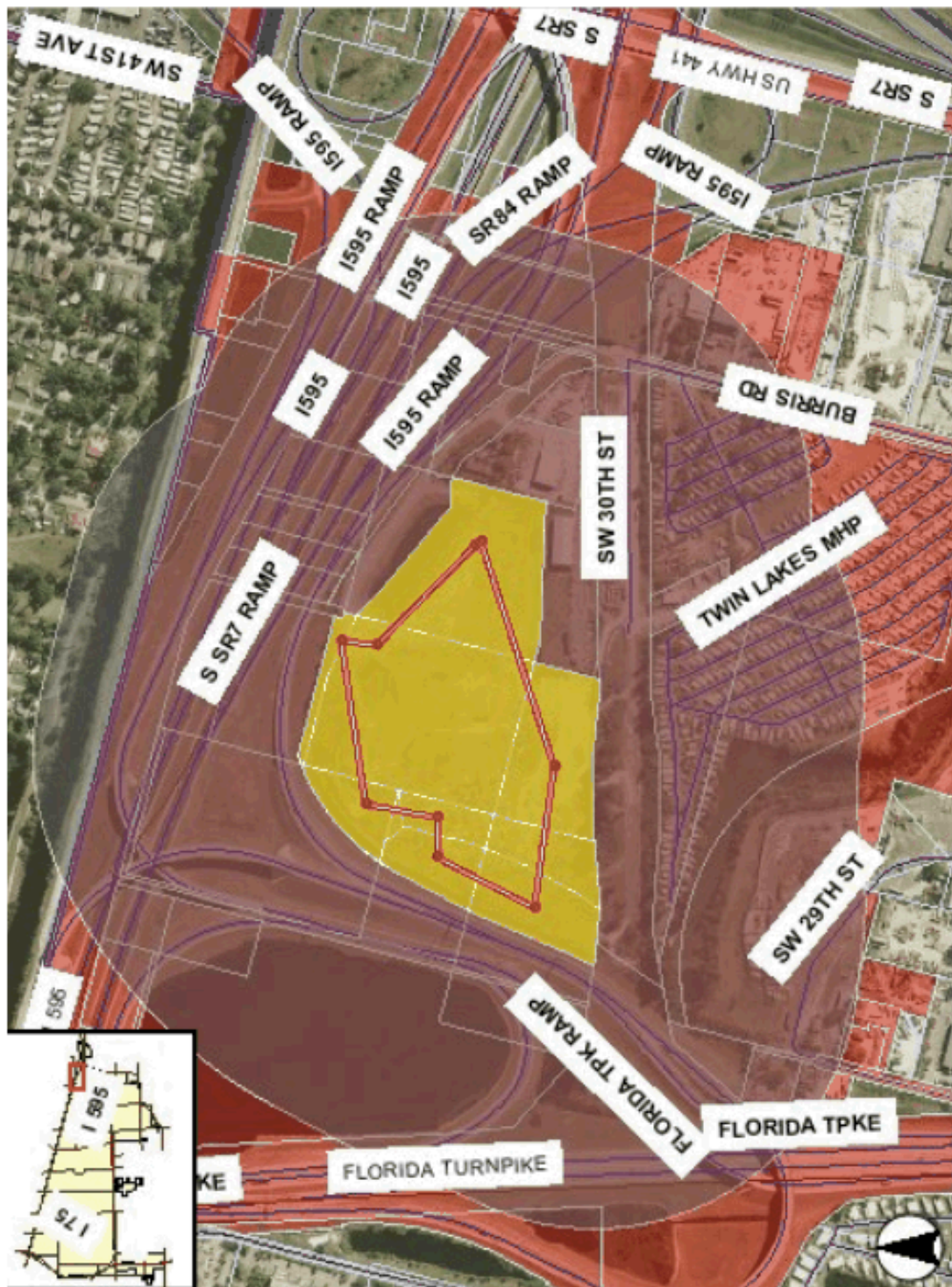
*Property. The Special Permit will inevitably encourage the development of uses that are consistent with the pending Transit Oriented Corridor and State Road 7 / 441 Corridor Master Plan.*

7. The Special Permit will not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.

*Approving the Special Permit will not grant any special privilege to Owner. The proposed uses are permitted under the current Industrial land use category and Truck Stop zoning category. The Special Permit is the method being utilized to allow for temporary uses to exist on the Property while development regulations are being modified in the Town and County to ultimately change the face of eastern Dave along 441.*



Exhibit 2 (Mail-out Radius Map)



### **Exhibit 3** (*Mail-out*)

2238 NW 86TH STREET INC  
% MEE,GLENN  
517 SW 1 ST  
FT LAUDERDALE FL 33301

BURNUP & SIMS ENTERPRISES INC  
MERITAX LLC % CHARLES HONED  
15455 N DALLAS PKWY STE 925  
ADDISON TX 75001

COOPER,ROBERT H & SHERRY J  
3505 SW 50TH AVE  
DAVIE FL 33314-2107

CREX-LAING LLC  
4700 SW 30 ST  
DAVIE FL 33314

DA FAMILY HOLDINGS LLC  
PO BOX 552350  
FORT LAUDERDALE FL 33355

DAVIE TRAVEL CENTER INC  
820 ANDREWS AVE  
POMPANO BEACH FL 33069

DESIGNED TRAFFIC INSTALLATION  
15455 N DALLAS PKWY STE 925  
ADDISON TX 75001

DMG ROAD WORKS LLC  
12209 S DIXIE HWY  
MIAMI FL 33156-5236

FLORIDA DEPT OF TRANSPORTATION  
OFFICE OF RIGHT OF WAY  
3400 W COMMERCIAL BLVD  
FORT LAUDERDALE FL 33309-3421

FORMAN,CHARLES R &  
BOUNDS,BEVERLY L F ETAL  
1323 SE 3 AVE  
FT LAUDERDALE FL 33316

FORMAN,H C &  
FORMAN,C R  
PO BOX 292037  
DAVIE FL 33329-2037

FORMAN,MILES A & CHARLES R TRSTE  
PO BOX 292037  
DAVIE FL 33329-2037

GRUNDMAN,RICHARD  
3030 BURRIS RD  
DAVIE FL 33314

LTV PROPERTIES INC  
6494 SCENIC HWY  
PENSACOLA FL 32504

MCM & ASSOCIATES LLC  
3100 BURRIS ROAD  
DAVIE FL 33314

MEARS,JOHN W  
3411 SW 50TH AVE  
DAVIE FL 33314-2100

TWIN LAKES LAND RECLAMATION INC  
PO BOX 292037  
DAVIE FL 33329-2037

VAC ENTERPRISES INC OF SO FLA  
4450 N 29 AVE  
HOLLYWOOD FL 33020-1036



## Exhibit 4 (Public Participation Notice)

### MEETING NOTICE

Davie Travel Center  
c/o Siegel, Lipman, Dunay, Shepard, & Miskel, LLP  
5355 Town Center Road, Suite 801  
Boca Raton, FL 33486

July 3, 2008

Re: **Citizen Participation Plan Meeting for: Davie Travel Center**  
**Project Number: SE 6-1-08**

Dear Neighbor:

This letter is to invite you to a citizen participation meeting relating to the Davie Travel Center for a parcel located at the southeast corner of the Florida Turnpike and I-595. Davie Travel Center now submits a Special Permit Application which, in addition to the previously approved uses, will permit the following uses on the Property in accordance with the plans submitted with this Application:

Fuel Pumping Stations  
Truck /Bus Washing Facility  
Service Station with Repair Bays  
Convenience Store with food concessions and retail sales of automotive needs  
Warehouse / Storage  
Flex Space with Service and Office Uses  
Outside Storage Area

Please see the attached location map for the specific location of the proposed project.

Under a Town of Davie ordinance, the petitioner is required to hold two (2) citizen participation meetings and send notice to all property owners within 1,000 feet of the subject site prior to the Town initiating their review of the application. We have scheduled the following meetings.

*First Citizen Participation Meeting:*

Date: July 14, 2008  
Time: 6:30 p.m.  
Location: Town of Davie  
Community Meeting Room  
6591 Orange Drive  
Davie, FL 33314

*Second Citizen Participation Meeting:*

Date: July 22, 2008  
Time: 6:30 p.m.  
Location: Town of Davie  
Community Meeting Room  
6591 Orange Drive  
Davie, FL 33314

If you wish to submit written comments, please send them to:

Lauren Lending  
Siegel, Lipman, Dunay, Shepard, & Miskel, LLP  
5355 Town Center Road, Suite 801  
Boca Raton, FL 33486

Also, please be advised that there will be additional opportunities for public input at the Town of Davie Public Hearings.

Sincerely,

  
Lauren Lending

Attachment: Location Map

**Exhibit 5** (*Public Participation Sign-in Sheet*)

**N/A**

**Exhibit 6** (*Public Participation Report/Summaries*)

Summary of Discussion  
Public Participation Meetings  
July 14, 2008 & July 22, 2008

*No residents attended either public participation meeting.*

**Exhibit 7 (Proposed Agreement)**

AGREEMENT

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Town of Davie, a political subdivision of the State of Florida ("Town") and Davie Travel Center, Inc., a Florida corporation and 1-15 Hartsdale Avenue Corporation ("Owner").

**WITNESSETH:**

**WHEREAS**, Owner is the fee simple owner of that certain property located east of the Florida Turnpike and south of I-595 located in the Town of Davie, Broward County, Florida, as more particularly described in Exhibit "A" attached hereto ("Property"); and

**WHEREAS**, Owner's predecessor-in-interest to the Property applied for rezoning from Broward County M-4 to TS, Truck Stop District, which was approved by the Town on March 1, 2000 through Ordinance 2000-009; and

**WHEREAS**, Owner's predecessor-in-interest to the Property applied for site plan approval for a full service truck stop, with multiple uses, which site plan was approved by the Town on March 17, 2004; and

**WHEREAS**, the Town and Owner subsequently agreed that the long term planning for the Property is more appropriately consistent with the proposed TOC and Area-Wide DRI currently being reviewed by Broward County, the South Florida Regional Planning Council and the Florida Department of Community Affairs; and

**WHEREAS**, the Town approved a Special Permit for outdoor parking and storage on the Property on September 6, 2006, which was subsequently extended through March 2009; and

**WHEREAS**, on June 16, 2008, Owner submitted an application to expand the scope of the Special Permit to include uses consistent with the existing Truck Stop zoning designation and Industrial land use designation; and

**WHEREAS**, the Town approved the modified Special Permit application for the Davie Travel Center on January \_\_\_\_, 2009; and

**WHEREAS**, the Town and Owner believe it is in the best interest of both parties to enter into this agreement placing certain obligations on Owner and Town to promote the future development of the Property consistent with the Town's long term planning vision; and

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and Owner agree as follows:

1. Recitals. The foregoing recitations are true and correct and are hereby incorporated herein by reference.
2. Town's Agreements.
  - a. Entitlements. The Town agrees to diligently pursue approval of the proposed TOC land use plan amendment, Area-Wide Development of Regional Impact, adoption of land development regulations consistent with the TOC and DRI and collapsing the Town Flex Zones to permit additional residential density.
  - b. Utilities. The Town agrees to provide water and sewer services to the Property with sufficient capacity to support the proposed Grand Plaza

development, as submitted to the Town's Planning & Zoning Department on December 1, 2006 (Application # CMSP 12-1-06).

- c. Access. The Town agrees to cooperate with Owner in its efforts to obtain access to the Property from the Florida's Turnpike and I-595, including attending meetings with FDOT and other governmental agencies as needed. Town further agrees to continue pursuing approval of the proposed Oaks Road Turnpike Overpass. Town also agrees to complete construction of the Spur Road in accordance with the OTTED agreement dated January 8, 1997.
- d. Timing. The Special Permit approval shall be valid for a period not to exceed fifteen (15) years in order to establish the TOC and commence redevelopment in accordance with the approved plans and development regulations noted above.

3. Owner's Agreements. If redevelopment of the Property has not commenced within the initial fifteen (15) year period of the Special Permit, Owner shall have the option of applying to the Town Council for an extension, the timing of such extension shall be at the sole discretion of the Town Council. Additionally, Owner agrees to continue to abide by the Special Permit and all previous conditions of approval for Special Permits SE 10-1-05, SE 4-1-05 & SE 7-1-07, which Town acknowledges shall remain effective until such time as the above conditions are satisfied.

4. Default. In the event the Owner fails to abide by the terms of this Agreement, Town shall have the option of immediately revoking the Special Permit and ceasing any business activities on the Property not consistent with the zoning district and

land use designation in effect at the time of such default. In the event Town fails to abide by the terms of this Agreement, Owner shall have no obligation to cease business activities for the truck stop, and may continue to operate consistent with the Special Permit approved on January \_\_\_\_, 2009 until such time as Town complies with all terms of this Agreement.

5. Assignments. This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by Owner without the prior written consent of Town.

6. Amendments. No modification, amendment or alteration to the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith. Notwithstanding the foregoing, nothing contained herein shall prevent Owner from making future application to the Town requesting to modify, change or amend the Agreement, the land use designation, zoning district or uses approved by the Special Permit.

7. Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the Owner and the Town designate the following as the respective places for giving of notice:

Town:	Gary Shimun
	Town Administrator
	6591 Orange Drive
	Davie, Florida 33314

Copy To: John Rayson, Esq.  
Town Attorney  
6591 Orange Drive  
Davie, Florida 33314

Owner: Gerald Brauser  
Davie Travel Center, Inc.  
4751 Southwest 30<sup>th</sup> Street  
Davie, Florida 33314

Copy To: Scott Backman, Esq.  
Siegel, Lipman, Dunay, Shepard, & Miskel, LLP  
5355 Town Center Road, Suite 801  
Boca Raton, Florida 33486

8. Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

9. Headings. Headings herein are for the convenience of reference only and shall not be considered on any interpretation of this Agreement.

10. Exhibits. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

11. Waiver. Failure of the City to insist upon strict performance of any covenant or condition of this Agreement, or to execute any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right, but the same shall remain in full force and effect.

12. Legal Representation. It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this



Agreement and accordingly the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both parties.

13. Severability. If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

14. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Florida with venue lying in Broward County, Florida.

15. Attorneys Fees. In the event that either party brings suit for enforcement of this Agreement, the prevailing party shall be entitled to attorney's fees and court costs in addition to any other remedy afforded by law.

16. Extent of Agreement. This Agreement represents the entire and integrated agreement between the City and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals  
the day and year first written above.

TOWN OF DAVIE, a Florida  
municipal corporation

ATTEST:

\_\_\_\_\_  
RUSSELL MUNIZ, TOWN CLERK

BY: \_\_\_\_\_  
GARY SHIMUN, TOWN ADMINISTRATOR

APPROVED AS TO FORM.

\_\_\_\_\_  
OFFICE OF THE TOWN ATTORNEY

DAVIE TRAVEL CENTER, INC., a Florida  
corporation

By: \_\_\_\_\_  
Gerald Brauser

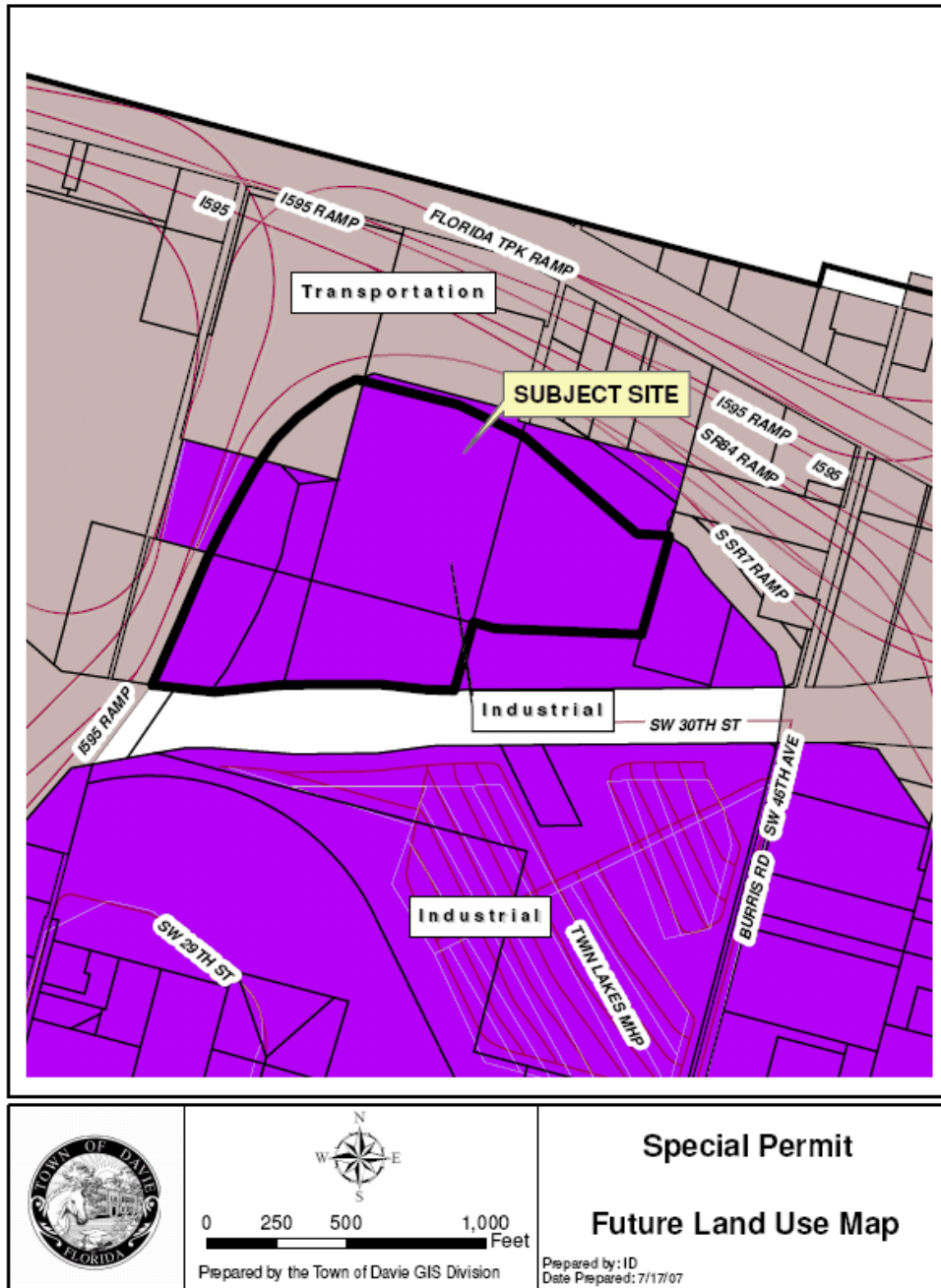
STATE OF FLORIDA  
COUNTY OF BROWARD

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_\_  
day of \_\_\_\_\_, 2005, by Gerald Brauser, as \_\_\_\_\_ of Davie  
Travel Center, Inc., a Florida corporation, who is personally known to me or who has  
produced \_\_\_\_\_ as identification.

My Commission Expires:

\_\_\_\_\_  
Notary Public

**Exhibit 8** (*Future Land Use Plan Map*)



**Exhibit 9** (*Aerial, Zoning, and Subject Site Map*)

